

Unified Program Compliance Concept Outline

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VISION

The driving force behind this project is the desire and the need to continually improve California's protection of public health and the environment.

BACKGROUND

The historic approach to inspection program implementation has remained basically the same over the decades since these programs began. This is despite decades of experience, newer and more sophisticated regulatory mandates, dramatically improved knowledge of individual facility compliance, wide variations in population proximity to regulated facilities, more sophisticated enforcement approaches and development of additional compliance tools with proven success.

This dramatic increase in program maturity and sophistication provides managers the information and tools necessary to prioritize and apply enforcement program resources to the highest environmental priorities first and to employ newer more efficient compliance approaches for lower priority regulated activities. The always present resource constraints, makes it essential that managers devote their limited resources in a way to achieve the best environmental results.

Many other States and the US EPA, recognizing the same regulatory program dynamics, have been experimenting with a variety of compliance program innovations over the last few years. The successes, and "lessons learned" from these programs, along with the extensive comments they've received, have contributed greatly to development of our current concept.

Our proposal does not adopt in total any of the innovative programs developed by other states and the USEPA. Our proposal does build on those elements we believe can be successful in California and avoids those we believe are inconsistent with our outstanding history of strong environmental leadership. At this "working draft" stage, we're soliciting review, discussion and comment from interested stakeholders before moving forward.

PROPOSAL

To facilitate a discussion on the development of new approaches to compliance programs, the following outline focuses on this proposal's key elements, the expected advantages and the potential downsides. We're looking forward to your review and suggestions that will help make this project a success.

I. Key Conceptual Elements

Objective:

- Within existing program resources, develop a process to focus our compliance and enforcement resources on the highest environmental and enforcement priorities first.

Tactics

- Adopt the Unified Program Regulatory Performance Model to define the elements of a fully functioning program and help guide resource shifts consistent with the overall objective.
- Authorize a limited number (5-7) of carefully monitored pilot projects to test strategies that meet the objective while concurrently maintaining high compliance at lower priority facilities
- Develop specific pilot proposals in accordance with the Performance Model and current guidelines jointly developed by the CUPA Forum and Cal/EPA.
- Develop clear quantifiable and meaningful performance metrics to enable effective measurement and reporting of results for each pilot project.
- Develop clear workload prioritization standards or processes based on the criteria in the existing Model and Concept guidance for each pilot project.
- High priorities may include industrial sectors with serious compliance problems, geographic areas with disparate environmental problems, in depth multi media, and/or multi jurisdictional investigations, complex enforcement initiatives and similar issues.

- Lower priority facilities would be determined considering a well demonstrated history of good compliance, use of the latest “state of the art” technology, those with lower quantities of hazardous materials or materials with a lower potential for environmental damage, proximity to human or environmental receptors and similar factors.
- Pilot projects are intended to provide flexibility from current routine inspection mandates to accomplish the objective of focusing more resources on the highest priorities. Alternative inspection frequencies and oversight methods would be identified for lower priority facilities.
- Cal/EPA would review pilot proposals from CUPAs with good current program performance and approve those that meet the criteria within the Model and Concept guidance.
- Each CUPA implementing a Pilot would report periodically to Cal/EPA on the pilots performance using the agreed upon performance measures
- CUPA s implementing a Pilot would continually monitor both their priority decisions and pilot progress to make any changes necessary to meet imminent new risks or correct under performance within the pilot.
- Cal/EPA would have concurrent authority to modify or terminate any pilot failing to meet program performance standards.
- At the end of the pilot (proposed 4 years) Cal/EPA and the CUPA Forum will prepare an analysis of each pilots performance and recommend modification, extension, expansion, termination or other alternative as appropriate.